

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROCHELLE EVELYN a/k/a “Rachel Baht Yahudah,”
ROYCE CORLEY a/k/a “Yisrael Ben Yahudah,” et al.,

Plaintiffs,

-against-

RANTAB ENTERPRISES INCORPORATED d/b/a
“Rantab Restaurant Cuisine” et al.,

Defendants.

1:24-CV-0528 (MMG)

ORDER

MARGARET M. GARNETT, United States District Judge:

On August 5, 2024, the Court ordered Defendant the City of New York (the “City”) to “file a letter [by August 26, 2024]. . . requesting that the claims be dismissed for failure to prosecute, which the Court will most likely grant,” if Plaintiffs had not submitted to the City the medical releases the Court had previously ordered to be produced. *See* Dkt. No. 42; *see also* Dkt. No. 20 (compelling Plaintiffs to provide the City with medical releases and warning Plaintiffs that failure to comply may result in dismissal of the action for failure to prosecute).

On August 26, 2024, the City informed the Court that it has not received releases from Plaintiff Rochelle Evelyn and thus moved for all claims brought by Plaintiff Evelyn to be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute. *See* Dkt. No. 46. The City also moved to dismiss all claims, including those brought by Plaintiff Royce Corley, as time-barred by applicable statute of limitations. *See, e.g., id.* at 3 (“[C]laims brought pursuant to 42 U.S.C. § 1983 are subject to a three-year statute of limitations in New York.”).

It is HEREBY ORDERED that Plaintiff Rochelle Evelyn’s claims are DISMISSED for failure to prosecute. Rule 41(b) of the Federal Rules of Civil Procedure provides that a District Court may dismiss an action if “the plaintiff fails to prosecute or otherwise comply with [the] rules or a court order.” Fed. R. Civ. P. 41(b); *see also Baptiste v. Sommers*, 768 F.3d 212, 216 (2d Cir. 2014). Because, even after ample warnings and *sua sponte* extensions provided to Plaintiff Evelyn, the Court has not received any indication that she intends to pursue this case, all claims brought by Plaintiff Evelyn are dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of Court is respectfully directed to terminate Plaintiff Evelyn from this matter.

It is FURTHER ORDERED that Plaintiff Corley shall file a consolidated response or opposition to the motions to dismiss made by Mount Sinai Defendants (Dkt. Nos. 38-40) and the City (Dkt. No. 46) **by no later than October 20, 2024**. Any such response or opposition filed by Plaintiff Corley by that date shall be STRICTLY LIMITED to addressing the statute of limitations defense raised by Defendants in both motions. The Court will NOT consider

arguments that address issues other than the statute of limitations at this stage. This Order is without prejudice to Plaintiff Corley's ability to raise other arguments at a later stage should the Court determine that Plaintiff Corley's claims are not time-barred by the statute of limitations. Finally, for the avoidance of doubt, this Order supersedes the Court's prior order at Dkt. No. 44 staying all briefing on the Mount Sinai Defendants' motion to dismiss pending the appearance of all Defendants in this action.

Dated: August 28, 2024
New York, New York

SO ORDERED.

A handwritten signature in black ink, appearing to read 'Margaret M. Garnett', is written over a horizontal line.

MARGARET M. GARNETT
United States District Judge